

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department -Khammam District- Revision Petition filed by Sri Balineni Gopaiah (NT) S/o Veeraiah R/O Somulagudem(V)Palvancha (M), erstwhile Khammam District aggrieved by the Orders of the Additional Agent to Government, Bhadrachalam, Khammam Dist.in C.M.A No: 316/2007 dated: 31-10-2009 - Rejected - Orders - Issued

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 51

Dated: 29-10-2018

Read the following:-

- 1) Revision Petition filed by Sri Balineni Gopaiah (NT) S/o Veeraiah through his counsel dt 26-12-2009.
- 2) From the Tahsildar, Paloncha, Erstwhile Khammam District Lr.Rc.No.B/10202/2009,dt. 6.3.2010.
- 3) Govt Memo No 01/LTR-2/10, dated 17-03-2010.
- 4) From the Addl.Agent to Government, Bhadrachalam, Khammam Lr. R.P.No.01/LTR.2/2010-1(CMA.No.316/2007), dt.25.04.2011.
- 5) Govt.Letter No. 01/TW.LTR.2/2010, dt. 27.01.2015, 17.10.2016, 16.12.2016, 30.01.2017, 15.03.2017, 27.04.2017, 7.06.2017, 16.12.2017 07.02.2018, 23.03.2018 & 04.05.2018.

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ORDER

In the reference 1st read above, Sri Balineni Gopaiah (NT), S/o Veeraiah, R/o Somulagudem(V), Palvancha (M), erstwhile Khammam District has filed Revision Petition before the Government aggrieved by the orders of the Additional Agent to Government, Bhadrachalam, Khammam District in C.M.A No: 316/2007 dated: 31-10-2009 in respect of land to an extent of 0-36 guntas in Sy.No.93/1 of Somulagudem Village of Palvancha (M) of Erstwhile Khammam District.

2. In the reference 3rd read above, the Project Officer & Additional Agent to Government, Bhadrachalam was requested to furnish Para Wise Remarks and connected case records and in the reference 4th read above the Additional Agent to Government, Bhadrachalam has furnished Para Wise Remarks and connected case records.

3. The Main grounds of the case are as follows:

- The impugned order passed by the Courts is illegal and against the principles of natural justice and liable to be set aside.
- The Petitioner is the owner and possessor of the appeal schedule land i.e. the Agricultural Dry Land to an extent of 0-36 guntas in Sy.No.93/1 situated at Somulagudem Village of Palvancha (M) of Erstwhile Khammam District and the said land is purchased way back in the year 1948.
- The Petitioner herein had purchased the scheduled property from the original Pattedar prior to Regulation 1/1959 as amended the Transfer of property Regulation 1/70 Act. Since from the date of purchase, the appellant has been in peaceful possession and enjoyment over the appeal schedule property with absolute rights of ownership over the property. The Petitioner is having all relevant documents and has been paying land revenue to the Government.
- The Appellate Court failed to consider well considered orders in Land Transfer Regulation Case No.1073/19/Kgm, dt. 26.08.1981 and order in Land Transfer Regulation Case No. 158/2006/PVL, dt. 02.02.2007 passed by original authority i.e. Respondent No.2 viz. Special Deputy Collector(TW), Bhadrachalam wherein the respondent No.2 specifically held that the schedule land was purchased in the year 1948 and after considering the village record the respondent No.2 dropped the proceedings.

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- The authorities failed to appreciate the evidence on record and also did not give any opportunity to produce records and failed to give opportunity to submit the documents by the appellant and came to wrong conclusion and passed erroneous exparte order for ejectment against the appellant and as such the order of the Lower Court is illegal and is liable to set aside.
- The authorities have not considered Revenue Records pertaining to the period prior to 1970 and relying on the documents furnished by the respondent No.1 i.e. Sri Soyam Ramaiah (ST), S/o Laxamaiah, R/o Somulagudem Village, allowed the appeal filed by him without calling for records from the revenue authorities.
- That the grounds will be urged at the time of hearing with the permission of the Hon'ble Court and requested to set aside the order dated 31.10.2009 in CMA No.316/2007 on the file of Additional Agent to Government, Bhadrachalam and to pass such other order or orders as the court deem fit and proper in the interest of justice.

4 The remarks of the Additional Agent to Government, Bhadrachalam on the revision petition are as under:

- Originally Land Transfer Regulation case No.158/06/PVL was initiated between Sri Soyam Ramaiah as Petitioner and Sri Balineni Gopaiah as Respondent before the Special Deputy Collector (TW), Bhadrachalam. The respondent attended the court and filed photostat copies of the LR receipts, copy of order in Land Transfer Regulations case No.1073/79 pahani extracts issued on 18.8.2004 and the Special Deputy Collector (TW) after due enquiry dropped the case under resjudicata as the transaction which involved is not attracting the Regulation. Against the said orders, Sri Soyam Ramaiah preferred a CMA No.316/2007 before the Additional Agent to Government, Bhadrachalam and the Additional Agent to Government after due enquiry passed orders on 31.10.2009 allowed the appeal and set aside the lower court order and directed the Tahsildar to restore the suit land to the tribal appellant under cover of panchanama. Against the orders this Revision Petition has been filed by the Revision Petitioner.
- It is not correct to say that the Revision Petitioner is the owner of the Schedule land having purchased it in the year 1948. He has filed a copy of the order in case No. 1073/79 in which he stated that he purchased the schedule land from one Tatikonda Narsaiah on 22.4.1955, but he failed to produce the sada sale deed or pahani copies for the year of purchase. But in the Revision Petition he stated that the schedule land was purchased in the year 1948 which is quite contrary to the statement in LTR case No. 1073/79. Therefore the RP plea is not correct.
- The appellant contention that the scheduled land was purchased from original Pattadar prior to regulation is not correct. Because, the Revision Petitioner not filed any document of alleged sada sale which said to have been taken place prior to commencement of the regulation. Without filing any documentary, failed to produce any pahani extract for the year of alleged or prior to the commencement of the Regulation. He established that his possession is prior to the commencement of the Regulation. The Revision Petitioner possession is un-lawful.
- The Additional Agent to Government, who is the 3rd respondent herein correctly consider the case and set-aside the lower court order. The lower court (Special Deputy Collector (TW) court, Bhadrachalam) without verifying the records properly and dropped the proceedings. Even as per the pahanies 2000-01, 2001-02 and 2003-04 still shows that Sri Soyam Ramaiah shown as Pattadar and the Revision Petitioner shown as enjoyer. This is a sufficient proof to show that the Revision Petitioner is in

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possession of tribal pattadars land in contravention of the Regulation. If the Revision Petition purchased the land long back and in Revenue records his name would have been recorded in Pattadar column as well as in enjoyer's column. As per the evidence, it is evident that the non tribal Revision Petition is in possession of tribal land against the Regulation and his possession should not be continued.

- The Additional Agent to Government, Bhadrachalam after due enquiry and giving sufficient opportunity to the Revision Petition passed orders by discussion the case elaborately.
- The lower court order (the Additional Agent to Government, Bhadrachalam) has given a clear table about the possession and enjoyment as per the Revenue records and passed orders. Therefore the Revision Petition may be dismissed.
- In view of the above that the order passed by the Additional Agent to Government, Bhadrachalam is proper and legally correct and in accordance with the provisions of APSA LTR 1/59 as amended by 1/70 and prayed that the Government be pleased to dismiss the Revision Petition.

5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Additional Agent to Government it is observed that;

- Sri Balineni Gopaiah S/o: Veeraiah filed the R.P. against the orders of the Additional Agent to Government, Bhadrachalam on 31.10.2009 in C.M.A No: 316/2007. His claim is that he has purchased the land to an extent of Ac.0-36 gts. from one Thatikonda Narsaiah on 22.04.1955. But he could not produce any valid title deed to prove his claim.
- Further records prove that the respondent Sri Soyam Bapu Rao is a tribe and Pattedar of the schedule land. The Revision Petitioner is a non-tribe and he is not entitled to purchase land in Schedule area. Further he is not having any documents to prove that he has purchased the land from the owner of the land.

6. Government after careful examination of the matter here by rejects the Revision Petition filed by Sri Balineni Gopaiah (NT), S/o Veeraiah, R/o Somulagudem(V), Palvancha (M), erstwhile Khammam District and upholds the orders of the Additional Agent to Government and Project Officer, ITDA, Bhadrachalam dt: 31.10.2009 in C.M.A No: 316/2007. The land to be restored to the Tribal Respondent.

7. The Additional Agent to Government and Project Officer, ITDA, Bhadrachalam, Bhadradi Kothagudem District shall take necessary further action accordingly. The original case records received in the reference 4th read above are returned herewith to the Project Officer, ITDA, Bhadrachalam.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA,
SECRETARY TO GOVERNMENT

- 1) Sri Balineni Gopaiah (NT), S/o Veeraiah, R/o Somulagudem(V), Palvancha (M), erstwhile Khammam District now Bhadradi Kothagudem District.
- 2) Sri Soyam Ramaiah(ST), S/o: Laxmaiah, R/o: Somulagudem(V), Palvancha Mandal, Erstwhile Khammam District & Bhadradi Kothagudem District.
- 3) The Project Officer, ITDA and Additional Agent to Government, Bhadrachalam, Bhadradi Kothagudem District(w.e.)

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Copy to :

The Government Pleader for Social Welfare, High Court Buildings, Hyderabad.

The Special Deputy Collector(TW), Bhadrachalam,

Bhadradri Kothagudem District for information and necessary action.

The Tahsildar, Palvoncha Mandal, Now Bhadradri Kothagudem District

for necessary action.

Sri K. Jagadishwar Reddy, V.Sai Prasad, Advocates , Plot No.105, Saraswathinagar,

Saidabad, Hyderabad.

Sri N. Gowri Shankar, Advocate, H.No. 5-6-279, Plot No. 374, St.No.2, Vydehinagar,

Vanasthalipuram, Hyderabad.

P.S to M(TW)/P.S. to Secretary(TW)

SF/SC.

// FORWARDED:: BY ORDER //

SECTION OFFICER